

PRIVILEGED AND CONFIDENTIAL

PROJECT RAINBOW II  
SCENARIOS

<u>Bliley Bill (101st Cong.)</u>	<u>A</u> <u>(Base-line Concessions)</u>	<u>B</u> <u>(Moderate Case)</u>	<u>C</u> <u>(Worst Case)</u>
<u>Preemption &amp; FDA Regulation</u>			
° Preemption and FDA regulation off the table.	° Preemption and FDA regulation off the table.	° Preemption and FDA regulation off the table.	° Preemption and FDA regulation off the table.
<u>Advertising and Promotion</u>			
° No change in current law.	° Ban sports stadia product advertising.	° Ban sports stadia product advertising.	° Ban sports stadia product advertising.
° Billboard restrictions (i.e., within <u>500</u> feet of an elementary or secondary school).	° Billboard restrictions (i.e., within <u>500</u> feet of any school where students under age 18 attend).	° Billboard restrictions (i.e., within <u>750</u> feet of any school where students under age 18 attend).	° Billboard restrictions (i.e., within <u>1,000</u> feet of any school where students under age 18 attend).
° Ban paid product placement.	° Ban paid product placement.	° Ban paid product placement.	° Ban paid product placement.
° No change in current law.	° Codify Voluntary Advertising and Promotion Code provisions on advertising and promotion to the extent they are not otherwise addressed in this list (e.g., no ads in	° Codify Voluntary Advertising and Promotion Code provisions on advertising and promotion to the extent they are not otherwise addressed in this list.	° Codify Voluntary Advertising and Promotion Code provisions on advertising and promotion to the extent they are not otherwise addressed in this list.

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	publications directed primarily to those under age 21; no ads depicting persons appearing to be well-known athletes or under age 25, or suggesting that smoking promotes attractiveness or good health; clothing bearing brand names or logos must be in adult size only).		
° Ban display of cigarette trademark on any video game or arcade game.	° Ban ads on any audiotape, disc, videotape, film or video arcade game.	° Ban ads on any audiotape, disc, videotape, film or video arcade game.	° Ban ads on any audiotape, disc, videotape, film or video arcade game.
° No change in current law.	° No change in current law.	° Ban inner-city billboard/poster/transit ads. (Note: We will need to define "inner city" -- e.g., within core city limits).	° Ban inner-city billboard/poster/transit ads. (Note: We will need to define "inner city" -- e.g., within core city limits).
° No change in current law.	° No change in current law.	° Ban brand name sponsorship of entertainment events.	° Ban brand name sponsorship of all events (including entertainment, sports and cultural events), except allow auto sports.
° No change in current law.	° No change in current law.	° Require nontobacco promotional ("utilitarian") items (e.g., hats, t-shirts and pens) bearing a tobacco trademark to carry a warning label.	° Ban sale and distribution of nontobacco promotional ("utilitarian") items (e.g., hats, t-shirts and pens) bearing a tobacco trademark.

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<ul style="list-style-type: none"><li>◦ No change in current law.</li><li>◦ No change in current law.</li></ul>	<ul style="list-style-type: none"><li>◦ No change in current law.</li><li>◦ No change in current law.</li></ul>	<ul style="list-style-type: none"><li>◦ No change in current law.</li><li>◦ No change in current law.</li></ul>	<ul style="list-style-type: none"><li>◦ Ban sporting equipment/ clothing bearing a tobacco trademark, except allow <u>auto</u> sporting equipment/clothing with a warning label.</li><li>◦ Require tombstone ads only, but permit color and imagery (no people or characters); in absolute worst case, may have to accept pure tombstone ad requirements (<u>i.e.</u>, no color or imagery, as well as no people or characters) or possibly a complete ban on advertising.</li></ul>

Youth

<ul style="list-style-type: none"><li>◦ Sampling ban (<u>i.e.</u>, no sampling on public streets, sidewalks, or parks, except in places where persons under age 18 are denied admission).</li></ul>	<ul style="list-style-type: none"><li>◦ Codify Voluntary Advertising and Promotion Code restrictions on sampling (<u>e.g.</u>, no sampling on public streets, sidewalks or parks, except in places open only to persons who may lawfully buy cigarettes; no use of mails to distribute unsolicited cigarette samples; no mail samples without age (21) certification; no</li></ul>	<ul style="list-style-type: none"><li>◦ Sampling ban, except allow <u>solicited</u> samples through the mail.</li></ul>	<ul style="list-style-type: none"><li>◦ Complete sampling ban (<u>i.e.</u>, streets, events and through the mail).</li></ul>
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	samples to anyone appearing to be less than 21 (without reasonable identification to the contrary)).		
◦ No change in current law.	◦ No change in current law.	◦ Controls on discounts and coupons (e.g., age certification).	◦ Ban discounts and coupons.
◦ Enforcement if 18-year-old uniform minimum age laws, except that prohibition against distribution/receipt does not apply to family members or acquaintances or to employees of a cigarette manufacturer, distributor or retailer.	◦ Enforcement of 18-year-old uniform minimum age laws.	◦ Enforcement of 18-year-old uniform minimum age laws.	◦ Enforcement of 18-year-old uniform minimum age laws.
◦ No change in current law.	◦ Smoking ban in elementary schools and day-care centers.	◦ Smoking ban in elementary schools and day-care centers.	◦ Smoking ban in all pre-college schools and in day-care centers.
◦ Vending machine <u>controls</u> (i.e., no vending machine in any place open to the public, unless the machine is supervised or the place is licensed to sell alcoholic beverages for consumption on the premises; notice of minimum age law also is required).	◦ No change in current law.	◦ Vending machine <u>controls</u> .	◦ Vending machine <u>ban</u> .

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<ul style="list-style-type: none"><li>◦ N/A. (But civil penalties of up to \$200 per violation apply to enforce minors' law, although reasonable reliance on proof of age or on the appearance of the purchaser is a defense.)</li></ul>	<ul style="list-style-type: none"><li>◦ No change in current law. (ADAMHA current law "carrot and stick" approach to the states applies.)</li></ul>	<ul style="list-style-type: none"><li>◦ Codify selected ADAMHA requirements for states to the extent not otherwise addressed in this list (i.e., random and targeted inspections to enforce 18-year-old law; requirement that states have other well-designed procedures to reduce likelihood of violations, such as graduated schedule of penalties).</li></ul>	<ul style="list-style-type: none"><li>◦ Codify selected ADAMHA requirements for states to the extent not otherwise addressed in this list (i.e., random and targeted inspections to enforce 18-year-old law; requirement that states have other well-designed procedures to reduce likelihood of violations, such as graduated schedule of penalties), plus other requirements based on the finalization of HHS proposed ADAMHA regulations (expected in March).</li></ul>

Warnings

<ul style="list-style-type: none"><li>◦ Six warnings (simplified versions of existing warnings).</li></ul>	<ul style="list-style-type: none"><li>◦ New warning on addiction.</li></ul>	<ul style="list-style-type: none"><li>◦ New warnings on addiction, effect of ETS on child development and minimum age requirements.</li></ul>	<ul style="list-style-type: none"><li>◦ New warnings on addiction, effect of ETS on child development, minimum age requirements and "Cigarettes Can Kill You."</li></ul>
<ul style="list-style-type: none"><li>◦ Warning to appear in darkest or lightest color on packages, whichever provides the greatest contrast, enclosed by a border; letters in all caps in the same size as caps in</li></ul>	<ul style="list-style-type: none"><li>◦ More prominent (i.e., size) warnings on package side panel, and larger billboard warnings.</li></ul>	<ul style="list-style-type: none"><li>◦ More prominent (i.e., size, color and format) warnings on package side panel, and larger billboard warnings.</li></ul>	<ul style="list-style-type: none"><li>◦ More prominent warnings (i.e., size, color and format) on <u>front and back</u> of packages, and larger billboard warnings.</li></ul>

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the current warning. Larger warnings in print ads (20 percent increase in area of label statement) and billboards (50 percent increase).			
° No change in current law.	° No change in current law.	° No change in current law.	° Remove "Surgeon General's" attribution.
° No change in current law.	° No change in current law.	° No change in current law.	° Application of warnings to exports (in English).

Ingredients/Constituents

° Require disclosure of adequate poundage used of each ingredient in industry-wide list submitted to HHS each year.	° No change in current law.	° Enhanced disclosure of ingredients to <u>HHS</u> : <u>aggregate poundage</u> used of each ingredient on the industry-wide list of ingredients submitted to HHS annually or <u>range</u> of ingredient amounts used in any given (but unnamed) brand.	° Enhanced disclosure of ingredients to <u>HHS</u> : <u>maximum usage levels</u> (as used in any one (but unnamed) brand) for each ingredient on the industry-wide list of ingredients submitted to HHS annually.
° Cartons must list in descending order of predominance by weight (exact quantities not disclosed) each added ingredient present in a quantity greater than <u>1 percent</u> by weight of the cigarette, except that spices, flavorings,	° No change in current law.	° Enhanced disclosure of ingredients to the <u>public</u> : food disclosure model (on packs), which means that flavorings, fragrances, spices and colorings may be listed generically, with <u>de</u> <u>minimis</u> threshold ( <u>i.e.</u> , no disclosure of	° Enhanced disclosure of ingredients to the <u>public</u> : food disclosure model (on packs), which means that flavorings, fragrances, spices and colorings may be listed generically, with <u>definitions of</u> "ingredient" and

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colorings and fragrances may be listed generically.		ingredients in amounts less than 1 percent [or .1 or .01]).	"tobacco" (so as to exclude from disclosure processing aids, pesticides and reconstituted tobacco).
<ul style="list-style-type: none"><li>◦ Codify existing arrangement with FTC for testing and reporting of tar, nicotine and carbon monoxide and require FTC to publish these ratings annually.</li><li>◦ No change in current law.</li></ul>	<ul style="list-style-type: none"><li>◦ No change in current law.</li><li>◦ No change in current law.</li></ul>	<ul style="list-style-type: none"><li>◦ Codify existing arrangement with FTC for testing and reporting of tar, nicotine and carbon monoxide and require FTC to publish these ratings annually.</li><li>◦ No change in current law.</li></ul>	<ul style="list-style-type: none"><li>◦ Brand-by-brand disclosure to public (<u>i.e.</u>, on packages and ads) and to HHS of tar, nicotine and carbon monoxide levels.</li><li>◦ Information to HHS on <u>major</u> constituents besides tar, nicotine and carbon monoxide, <u>i.e.</u>, which constitute collectively approximately 99% (by weight) of constituents of a tobacco product. (This is expected to amount to about 4 to 6 constituents (in addition to the three major ones identified above) and will be identified by the scientists in Richmond.)</li></ul>
<ul style="list-style-type: none"><li>◦ Set a date certain for ingredient report required by HHS under current law.</li></ul>	<ul style="list-style-type: none"><li>◦ N/A</li></ul>	<ul style="list-style-type: none"><li>◦ N/A</li></ul>	<ul style="list-style-type: none"><li>◦ N/A</li></ul>

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Education

° Establish a Center on  
Tobacco and Health.

° N/A (until Kennedy bill  
introduction).

° N/A (until Kennedy bill  
introduction).

° N/A (until Kennedy bill  
introduction).

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